

REMARKS/ARGUMENTS

Claims 1 to 3, 5, 6, 8, 12 to 14, 17, 18, 20, 24 to 32, 34, 36, 39, 40, 42, 44, 46 and 47 are still pending with this application. All of the claims have been amended, and claims 48, 50, 54 and 60 have been withdrawn and cancelled from the application. No new matter has been added with the amendments submitted herewith.

Election of Claims

The Examiner requested restriction of the claims between one of the two following inventions:

- I. Claims 1 to 3, 5, 6, 8, 12 to 14, 17, 18, 20, 24 to 32, 34, 36, 39, 40, 42, 44, 46 and 47, drawn to alloy compositions; and
- II. Claims 48, 50, 54 and 60, drawn to a process.

This will confirm Applicants' earlier verbal election of the claims of invention group I, and the withdrawal of the claims of invention group II.

Claim Interpretation

The Examiner indicated that the text of the claims was unclear as to the nature of the alloy compositions and the Pt limitations set forth in claims 1 and 13. Applicants have amended these claims to confirm the Examiner's interpretation of the claims and clarify the claim language going forward.

Rejections Under 35 U.S.C. §112, 2nd paragraph

The Examiner rejected claims 2, 15 and 17 under 35 U.S.C. §112, 2nd paragraph as being indefinite. Specifically, each of these claims was rejected as containing claimed compositional ranges that are inconsistent with the parent claim. Applicants have amended the parent claims of each of these dependent claims to make the compositions consistent, thereby obviating these rejections.

The Examiner also rejected claim 30 under 35 U.S.C. §112, 2nd paragraph as being indefinite based on its claim of a "Ni free" alloy. Specifically, the Examiner

alleges that this conflicts with claim 29, upon which claim 30 depends, because claim 29 requires that the "y" term be positive. The "y" term, as shown in claim 28, upon which claim 29 depends, refers not just to Ni, but to the combined sum of Ni and Co in the alloy. Accordingly, Ni may be entirely absent from the alloy and "y" still positive so long as Co is present. Claim 30 merely specifies that the entire contribution of the "y" element present comes from Co. As such, Applicants submit that claim 30 is not indefinite and respectfully request withdrawal of this rejection.

Rejection Under 35 U.S.C. §102(b)

The Examiner rejected claims 28, 29, 31 and 32 as being anticipated under 35 U.S.C. §102(b) over Japanese Patent Publication NO. 2002-275605. Specifically, the Examiner cited to alloy composition No. 10 as listed on page 5 of that publication. Although the cited alloy only overlaps at the extreme low and high ranges of Applicants' alloy, to speed prosecution of the application Applicants have amended the rejected claims to recite preferred ranges of the alloy composition that are not overlapped by the alloy cited in the prior art reference, thereby obviating this rejection.

Rejection Under 35 U.S.C. §102(e)

The Examiner also rejected claims 1, 3, 5, 8, 12, 36, 40, 42 and 47 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,749,698 to Shimizu et al. Applicants respectfully traverse this rejection.

The Examiner rejected the claims, all of which depend from independent claim 1, based on alloys set forth in Tables 1 and 2 of the Shimizu et al. reference, and more particularly to alloy numbers 2, 3, 21 and 22. Although it would appear that Shimizu et al. teach some alloys that fall at the far extremes of Applicants' proposed compositional ranges for Pt, Pd, Cu and P, nowhere do Shimizu et al. ever teach the addition of either Ni or Co as required by independent claim 1.

Specifically, claim 1 recites that the Ni concentration "b" may range from 0 to 15 atomic percent and the Co concentration "d" may range from 0 to 15 atomic percent;

however, the claim also requires that the sum of "b and d" be at least 2 atomic percent. Nowhere do Shimizu et al. ever teach, disclose or even suggest the addition of these materials. Moreover, Shimizu et al. repeatedly teach that Ni MUST be omitted from the composition of their alloy. (See, e.g., Shimizu et al., Sections entitled "Technical Field To Which The Invention Pertains" & "Background Art".)

Because of the absence of any teaching, disclosure or suggestion that the alloys listed in the Shimizu et al. patent should contain at least 2 atomic percent of a combination of one or both of Ni and Co, Applicants submit that the alloys of the instant invention cannot be anticipated by the Shimizu et al. reference.

Rejection Under 35 U.S.C. §103(a)

The Examiner also rejected claims 34, 39, 44 and 46 under 35 U.S.C. §103(a) as being unpatentable over Shimizu et al. Applicants traverse the rejection for the reasons cited above. Specifically, Shimizu et al. never teaches Pt-based bulk solidifying amorphous alloys having a combination of at least 2 atomic percent of combination of one or both of Ni and Co as required by claim 1, upon which claims 34, 39, 44 and 46 all depend. Accordingly, Applicants submit that the claims cannot be rendered obvious by the Shimizu et al. reference.

Notice of Related Application

Applicants would like to draw the Examiner's attention to co-pending application entitled "BULK SOLIDIFYING AMORPHOUS ALLOYS WITH IMPROVED MECHANICAL PROPERTIES" (U.S. Patent Application No. 11/303,844. Although Applicants are aware that the Examiner of the instant application is also the examiner for the co-pending application, for full disclosure Applicants would like to put on the record all of the art and arguments cited in the co-pending case, and are submitting herewith a Supplemental Information Disclosure Statement.

Appln No. 10/540,337

Reply to Office Action of March 25, 2008

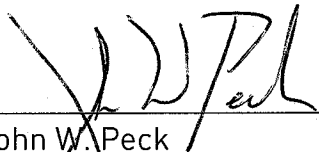
Conclusion

If any questions remain regarding the restriction requirement of the application, Applicant would appreciate if the Examiner would advise the undersigned by telephone. The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 50-4407. Please show our docket number with any charge or credit to our Deposit Account.

Respectfully submitted,

KAUTH, POMEROY, PECK & BAILEY LLP

By



John W. Peck
Registration No. 44,284
949.852.0000

JWP/t